



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 13 2012

OFFICE OF
AIR AND RADIATION

Ms. Julie R. Domike
Mr. Alec C. Zacaroli
Counsel for Mack Trucks, Inc. and Volvo Group North America, LLC
Kilpatrick Townsend & Stockton, LLP
Suite 900 607 14th Street, NW
Washington, D.C. 20005-2018

Dear Ms. Domike and Mr. Zacaroli:

The U.S. Environmental Protection Agency received your letter dated February 7, 2012. In the letter, you ask the EPA to confirm that EPA will not take any action based on the use of nonconformance penalties provided under the Interim Final Rule until such time as any petitions for stay of the rule have been resolved or, in the alternative, to provide at least fifteen days notice to Mack prior to taking such action.

After reviewing your request, the EPA is not in a position to provide such assurances. The EPA believes that it is appropriate and reasonable to take action in furtherance of its regulations, including those promulgated in the Interim Final Rule, in the normal course of business and thus does not believe it is appropriate to commit to take no action until such time as any petitions for stay of the rule have been resolved. In addition, the EPA does not make a determination concerning issuance of a certificate of conformity until our review of the application is completed and we are satisfied that it is appropriate to issue a certificate. EPA's standard practice for many years has been to then promptly issue a certificate to the requesting manufacturer. The notice requested by Volvo would presumably occur at the point the EPA has determined that a certificate should be issued, as there would be no basis for providing notice prior to that point. Complying with Volvo's request would mean delaying issuance of a certificate for the requested time period, contrary to the normal procedures the EPA applies to all manufacturers. Particularly given the exigencies identified in the Interim Final Rule, the EPA does not believe it is appropriate to bind itself to such a delay prior to taking action on a certificate application.

Sincerely,

A handwritten signature in blue ink, which appears to read "Margo T. Oge", is written over the typed name and title.

Margo Tsigotis Oge, Director
Office of Transportation and Air Quality